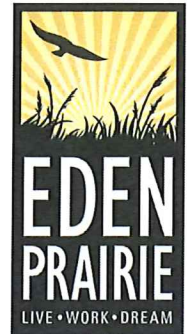


February 14, 2017

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554



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Eden Prairie, MN
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edenprairie.org

RE: WT Docket Number 16-421 – Streamlining Deployment of Small Cell Wireless Infrastructure by Improving Wireless facility Siting Policies

Dear Ms. Dortch,

The City of Eden Prairie has several grave concerns about possible outcomes from this petition. They include the granting of new and extraordinary rights in an already crowded Right-of-Way (ROW) which cities have spent significant resources acquiring, managing and maintaining, the large scale introduction of aesthetically unacceptable facilities within residential neighborhoods, and the potential give-away of this ROW asset to small cell equipment owners without acknowledging its true value.

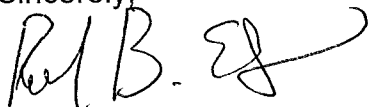
First, this petition has the potential to allow any person capable of forming an LLC to suddenly have an asset (ROW) for purposes of installing towers and poles for small cell equipment. By allowing this a new business model will be born overnight where anyone can suddenly stake a claim to the ROW for installing small cell equipment that will generate lease agreements for transmitting data for cell carriers. This deregulation of the ROW will disrupt decades of order that has been established by cities working with electric, gas, water, wastewater, stormwater, telecommunication, and cable companies who depend on the ROW for their extensive networks. If ROW is to be opened up for these small cell equipment installations then it should be limited to only the cell carriers (Verizon, Sprint, T-Mobile, AT&T, etc.), and not to companies whose only interest is owning poles for the purpose of leasing the transmission of data to cell carriers. Access to the ROW should also require franchise agreements with cities that detail responsibilities for relocation during roadway reconstruction projects, standards of care for maintenance, standards for replacement when knocked down by cars, expectations for one-call locating the underground infrastructure associated with the small cell equipment, city/small cell equipment operator co-location maintenance responsibilities, electrical feed arrangement when co-located on city facilities, indemnification, and many other matters that are typically covered in franchise agreements with public utility providers operating in the ROW. If cell carriers are allowed access then they should be treated commensurate with other players in the ROW.

Second, cities need the authority to establish certain standards for small cell installations. This is particularly true of installations in residential neighborhoods where cities have taken considerable care, and cost, to eliminate overhead power lines, install decorative street lighting, and create a sense of identity for a neighborhood. This would include color and material standards for small cell poles and equipment so they would closely match surrounding street light poles (i.e. not installing a wooden pole in a neighborhood of green painted street lights). It would also set standards for location so the poles could be placed in areas less intrusive and impactful to homeowners like shared property lines or in alleyways. There also needs to be standards on the amount of ground mounted equipment allowed and possible screening requirements. Maximum pole height standards also need to be established so that a homeowner isn't saddled with a 100' small cell pole located 40' from their front door. Some city owned poles need to be off-limits for co-location like expensive decorative street lights or banner poles. In general, there needs to be standards for installations and co-locations in order to protect the city and residential home owners and their respective property values.

Third, there is a significant value to the ROW. For generations cities have paid the cost of acquiring, managing and maintaining this ROW. This includes the cost of negotiating for it through development entitlements, acquiring it for road and utility improvements, keeping it free from snow and ice in the winter, managing the stormwater runoff that comes from it, maintaining the roadway pavement, and reconstructing the street and storm drainage system when it needs to be replaced. If cell carriers want the benefit of access to this ROW, where they can drive right to their facility 24/7/365 without having any responsibilities for land management, then they should pay for the benefit they receive. To treat them differently than other private utility companies operating in the ROW would be unfair to all parties involved.

My supposition is rather simple. Cities are able and willing to expeditiously negotiate fair franchise agreements with cell providers to install small cell equipment in the ROW. This has been demonstrated in our community as well as communities across the country. Please be careful not to eliminate the order and fairness that has been established by cities as they have managed the ROW over generations of time. This asset is extremely valuable and necessary for the proper function of our transportation, water, wastewater, stormwater, electric, gas, telecommunication, and cable systems. Any attempt to change this paradigm needs to be carefully examined.

Sincerely,

A handwritten signature in black ink, appearing to read "R.B. Ellis", with a stylized flourish at the end.

Robert B. Ellis, PE
Public Works Director